

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

11 FEB 2006

To:
Davies Collison Cave
Level 15
1 Nicholson Street
MELBOURNE VIC 3000

PCT

NOTIFICATION OF TRANSMITTAL OF INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Rule 71.1)

Date of mailing
(day/month/year) **15 FEB 2006**

Applicant's or agent's file reference
12585250/DH/gjm *filed*

IMPORTANT NOTIFICATION

International application No.

PCT/AU2004/001428

International filing date (day/month/year)

20 October 2004

Priority date (day/month/year)

20 October 2003

Applicant

NAUTITECH PTY LTD et al

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translations to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the *PCT Applicant's Guide*.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed invention is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the IPEA/AU

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PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 12585250/DH/gjm	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/AU2004/001428	International filing date (day/month/year) 20 October 2004	Priority date (day/month/year) 20 October 2003
International Patent Classification (IPC) or national classification and IPC Int. Cl. B63H 23/30 (2006.01) F16D 25/0638 (2006.01) F16D 48/06 (2006.01)		
Applicant NAUTITECH PTY LTD et al		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
 - a. ☒ (sent to the applicant and to the International Bureau) a total of 5 sheets, as follows:
 - ☒ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - ☒ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Box No. I | Basis of the report |
| <input type="checkbox"/> Box No. II | Priority |
| <input checked="" type="checkbox"/> Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI | Certain documents cited |
| <input type="checkbox"/> Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> Box No. VIII | Certain observations on the international application |

Date of submission of the demand 19 August 2005	Date of completion of this report 09 February 2006
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustalia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer S.J. DESCHANEL Telephone No. (02) 6283 2368

Box No. I Basis of the report

1. With regard to the language, this report is based on:

☒ The international application in the language in which it was filed

☐ A translation of the international application into translation furnished for the purposes of:

, which is the language of a

☐ international search (under Rules 12.3(a) and 23.1 (b))

☐ publication of the international application (under Rule 12.4(a))

☐ international preliminary examination (Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

☐ the international application as originally filed/furnished

☒ the description:

pages 1, 3-5 as originally filed/furnished

pages* 2, 2a received by this Authority on 19 August 2005 with the letter of 19 August 2005

pages* received by this Authority on with the letter of

☒ the claims:

pages as originally filed/furnished

pages* as amended (together with any statement) under Article 19

pages* 6-8 received by this Authority on 19 August 2005 with the letter of 19 August 2005

pages* received by this Authority on with the letter of

☒ the drawings:

pages 1/3-3/3 as originally filed/furnished

pages* received by this Authority on with the letter of

pages* received by this Authority on with the letter of

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages

☐ the claims, Nos.

☐ the drawings, sheets/figs

☐ the sequence listing (specify):

☐ any table(s) related to the sequence listing (specify):

4. ☒ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages

☒ the claims, Nos. 15-17

☐ the drawings, sheets/figs

☐ the sequence listing (specify):

☐ any table(s) related to the sequence listing (specify):

If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☐ claims Nos: 1-8, 18

because:

☐ the said international application, or the said claims Nos.

relate to the following subject matter which does not require an international preliminary examination (*specify*):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos.
are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos.
are so inadequately supported by the description that no meaningful opinion could be formed (*specify*):

☒ no international search report has been established for said claim Nos. 1-8, 18

☐ A meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

☐ Furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Preliminary Examining Authority in a form and manner acceptable to it.

☐ Furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Preliminary Examining Authority in a form and manner acceptable to it.

☐ Pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13*ter*.1(a) or (b) and 13*ter*.2.

☐ A meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-bis of the Administrative Instructions, and such tables were not available to the International Preliminary Examining Authority in a form and manner acceptable to it

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☐ See Supplemental Box for further details.

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 9-14	YES
	Claims	NO
Inventive step (IS)	Claims	YES
	Claims 9-14	NO
Industrial applicability (IA)	Claims 9-14	YES
	Claims	NO

2. Citations and explanations (Rule 70.7)

D1: US 5474480

D2: US 3548987

D3: US 4305710

Claims 9-14 meet the requirements of novelty and industrial applicability.

Inventive step (IS) claims 9-14

It is considered that the invention as defined in claims 9-14 lacks inventive step in the light of each of the above documents or obvious combinations of the above documents. Each of these documents discloses a decoupling clutch system for use in a marine craft. The clutches have input shafts for operative connection to drive shafts and are arranged to drive output shafts operatively connected to propellers. Each document discloses a control system arranged to control slippage of the clutch.

While each of the documents may differ from the invention of the claims in certain respects it is considered that such features are merely matters of common general knowledge or could readily be included by a person skilled in the art if the circumstances so suggested. For instance, although D1 and D2 have incorporated the clutch or clutches in gearboxes it is considered that a person skilled in the art could contemplate keeping the clutches separate if such was desirable. Furthermore, it would readily occur to a person skilled in the art to combine the teachings of D1 or D2 with D3. Similarly it is considered that the explicit teachings of D2 of controlling slippage of the clutch according to speeds of input and output shafts could readily be used by a person skilled in the art to augment the disclosures of D1 or D3.

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box 1

The amendments to claims 15-17 are considered to go beyond the disclosure as filed because the feature: "a clutch having a single clutch area" has been excluded. In describing the first broad aspect of the invention on page 2, the specification describes that the clutch "has a single clutch area" with

"The advantage of having a single clutch area is that the clutch may be slipped at any speed or torque", which is directly related to overcoming the described problem of the prior art and is consistent with the description of the specification as a whole.

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